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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,824	12/27/2001	Akihito Taguchi	011738	9857

38834 7590 07/05/2005

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP  
1250 CONNECTICUT AVENUE, NW  
SUITE 700  
WASHINGTON, DC 20036

EXAMINER
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CANGIALOSI, SALVATORE A

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/026,824		TAGUCHI ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Salvatore Cangialosi		3621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3621

1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 1-15, and 17 are rejected under 35 U.S.C. § 103 as being unpatentable over Purcell (5940807) or Tambay et al (20020026403A1) in view of O'Neill et al (6219653) and any of Lily et al(5787000), Milne et al(6049742) or Dangat et al(6041267).

Regarding claim 1, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) disclose means for automated trading of bulk items including the determination of purchase price substantially as claimed. The differences between the above and the claimed invention is the use of a freight information utility and production machine data. It is noted that it is believed that it would be obvious to include shipping costs and production

Art Unit: 3621

data in a purchase price. O'Neill et al (See abstract, Figs. 16 and 19, and claims 1, 12, and 22) show the calculation of freight in the execution of a sale transaction. Lily et al (See Figs. 1, 7, and 8), Milne et al (See Fig. 2) or Dangat et al (See Figs. 2 and 7) show matching of production assets with demand and including production monitoring. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for either Purcell or Tambay et al because the ancillary sales transaction costs such as production data, taxes and shipping are obvious functional equivalents with respect to the claim limitations in a sales transaction. Regarding product data limitations of claim 2, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show electronic shopping data in a browser which is a functional equivalent of the claim limitations. Regarding demand data limitations of claim 2, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping data processor which is a functional equivalent of the claim limitations. Regarding evaluation limitations of claim 4, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping data processor including credit risk evaluation which is a functional equivalent of the claim limitations. Regarding the client server limitations of claim 5,

Art Unit: 3621

Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping client server which is a functional equivalent of the claim limitations. Regarding claim 6, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) disclose means for automated trading of bulk items including the determination of purchase price substantially as claimed. The differences between the above and the claimed invention is the use of a position information utility and production data in a purchase price. It is noted that it is believed that freight is an obvious function of relative position. O'Neill et al (See abstract, Figs. 16 and 19, and claims 1, 12, and 22) show the calculation of freight in the execution of a sale transaction. Lily et al (See Figs. 1, 7, and 8), Milne et al (See Fig. 2) or Dangat et al (See Figs. 2 and 7) show matching of production assets with demand and including production monitoring. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for either Purcell or Tambay et al because the ancillary sales transaction costs such as production data, taxes and shipping are obvious functional equivalents with respect to the claim limitations in a sales transaction. Regarding the freight limitations of claim 7, O'Neill et al (See abstract, Figs. 16 and 19, and claims 1, 12, and 22) show the calculation of freight in the execution of a

Art Unit: 3621

sale transaction which is a functional equivalent of the claim limitations. Regarding demand data limitations of claim 8, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping data processor which is a functional equivalent of the claim limitations. Regarding demand data limitations of claim 9, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping data processor which is a functional equivalent of the claim limitations. Regarding evaluation limitations of claim 10, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping data processor including credit risk evaluation which is a functional equivalent of the claim limitations. Regarding the client server limitations of claim 11, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping client server which is a functional equivalent of the claim limitations. Regarding claim 1, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) disclose means for automated trading of bulk items including the determination of purchase price substantially as claimed. The differences between the above and the claimed invention is the use of a freight information utility and production machine data.

Art Unit: 3621

It is noted that it is believed that it would be obvious to include shipping costs and production data in a purchase price. O'Neill et al (See abstract, Figs. 16 and 19, and claims 1, 12, and 22) show the calculation of freight in the execution of a sale transaction. Lily et al (See Figs. 1, 7, and 8), Milne et al (See Fig. 2) or Dangat et al (See Figs. 2 and 7) show matching of production assets with demand and including production monitoring. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for either Purcell or Tambay et al because the ancillary sales transaction costs such as production data, taxes and shipping are obvious functional equivalents with respect to the claim limitations in a sales transaction. Regarding product data limitations of claim 2, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show electronic shopping data in a browser which is a functional equivalent of the claim limitations. Regarding product data limitations of claim 13, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show electronic shopping data in a browser which is a functional equivalent of the claim limitations. Regarding demand data limitations of claim 14, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping data processor which is a functional

Art Unit: 3621

equivalent of the claim limitations. Regarding evaluation limitations of claim 15, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping data processor including credit risk evaluation which is a functional equivalent of the claim limitations. Regarding program limitations of claim 17, Purcell (See abstract, Figs. 1-3, Col. 4, lines 20-50, claims 1-17) or Tambay et al (See abstract, Figs. 2-5, pages 2-3) show an electronic shopping data processor that is implemented by software which is a functional equivalent of the claim limitations.

**Examiner's Note:** Although Examiner has cited particular columns, line numbers and figures in the references as applied to the claims above for the convenience of the applicant(s), the specified citations are merely representative of the teaching of the prior art that are applied to specific limitations within the individual claim and other passages and figures may apply as well. It is respectfully requested that the applicant(s), in preparing the response, fully consider the items of evidence in their entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication should be directed



Serial Number: 10/026,824

8

Art Unit: 3621

to Salvatore Cangialosi at telephone number **(571) 272-6927**. The examiner can normally be reached 6:30 Am to 5:00 PM, Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at **(571) 272-6712**.

**Any response to this action should be mailed to:**

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**or faxed to (703)872-9306**

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Serial Number: 10/026,824

9

Art Unit: 3621

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SALVATORE CANGIALOSI  
PRIMARY EXAMINER  
ART UNIT 222